

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-015-00079C

Parcel No. 303004935001000

Chuck D. Templeman,

Appellant,

v.

Cass County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 31, 2016. Chuck and Linda Templeman were self-represented. Attorney Brett Ryan of Watson & Ryan, PLC, Council Bluffs represented the Cass County Board of Review.

The Templemans are the owners of a commercial property located at 711 E. 7th Street, Atlantic, Iowa. According to the property record card, the subject property is improved with a one-story retail store with 2376 square feet of gross building area built in 1963. The building is listed in above-normal condition with average-quality construction (Grade 4-10). The site also has 1500 square feet of paving and is 0.08-acres.

The property's January 1, 2015, assessment is \$56,520, allocated as \$9450 in land value and \$47,070 in improvement value. The Templemans' protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the protest.

The Templemans then appealed to PAAB. They assert the property's correct value is \$38,877.

While the appeal was pending before PAAB, Cass County received an equalization order. The order required an adjustment to commercial properties, which is retroactively applied to the January 1, 2015, assessment. The change resulted in the Templemans' property being currently assessed for \$63,870, and the value that is currently at issue before PAAB.

Findings of Fact

The Templemans purchased the subject property in March 2014 from Adair Holdings, whom had obtained the property through tax sale. They paid \$30,000 and negotiated the purchase price directly with the seller before the property was listed on the Multiple List Service (MLS). It was offered for \$45,000 in "as is" condition on MLS. (Ex. 14). Ownership was transferred by a Quit Claim Deed. (Ex. D). The Templemans believe the purchase price should have been given more weight in setting the assessment. However, we note the circumstances of this sale make it an abnormal transaction under Iowa law, and abnormal sales are not to be considered for assessment purposes unless those factors that distort the sale can be adjusted.

Linda Templeman testified regarding several deficiencies in the property that they believe lower its value. The Templemans also submitted exhibits detailing the deficiencies they believe exist. (Ex. 2). She noted at the time of purchase, there was no working electrical service and a new panel had to be installed to bring it up to code. (Ex. B). Additionally, they installed a new roof, cleaned up, and painted the property.

Linda further noted the property lacks parking. (Ex. 2). Three sides of building sit on property lines and parking is limited on the north side only. In addition, after Department of Transportation construction work is completed on the right of way it will allow for only three parallel parking stalls for the two tenant businesses. Regarding the parking, she asserts there are errors in the property record card. (Ex. A). She believes the square footage listed on the property record card is incorrect. The sum of the 2376

square feet building area and the 1500 square foot parking area exceed (2376 + 1500 = 3876 square feet) the 3500 square foot site size.

She also asserts the building has two toilets, not three as listed on the property card.

Linda noted they cannot install central air because there is no space for an outdoor unit and it cannot be put on the roof. Snow removal is difficult and requires the snow to be hauled away from the site.

According to Linda, they had difficulty getting information at the Assessor's office to explain how the assessment was determined in what they described as a "run- a- round." Linda reports they were informed that a firm named Vanguard had completed the assessment, but were initially refused Vanguard's contact information. Later the Templemans were given it so they could obtain explanation of the reassessment from Vanguard. Upon contacting Vanguard, they were told that the information was confidential and could not be released to them. Consequently, they did not receive an adequate explanation of the process.

The Templemans also report they learned at the Board of Review the increased assessment was due to improvements to the property, but were unable to secure the list from the Assessor. Subsequent to the hearing and at this Board's request, the Board of Review filed a complete property record card for the subject. (Ex. H). Notations on the card, document that the subject property was revalued for 2015 to reflect remodeling on the west end including new drywall, acoustical ceiling, and laminate flooring completed in 2014. It would appear the Templemans attempted to gain information from the Assessor's office regarding their assessment, but were not adequately assisted in doing so by staff in the office. We note it is important that a property owner be able to receive basic information and explanations of the assessment process generally and as applied to their property.

The Templemans listed three comparable properties on their Board of Review petition and submitted two additional comparables to PAAB. (Exs. 10 & 13). The chart below lists only the transactions with normal sales conditions and reasonably proximate sales dates. Removing abnormal and/or dated sales leaves only one property.

Address	Year Built	GBA	Site SF	Sale Date	Sale Price	AV	Sales Ratio
Subject	1963	2376	3500			\$ 56,520	
806 E 7th	1910	1232	7000	1/6/2014	\$ 45,000	\$ 35,950	79.89%

The property located 806 E. 7th has a sale price per-square-foot of \$36.53. It is assessed at \$29.18 per-square-foot.

Brenda Nelson testified on behalf of the Board of Review. She stated the Cass County Assessor's Office hired Vanguard to appraise property in the jurisdiction in 2006. After the Templemans purchased the property, she felt it prudent to have Vanguard reappraise the property.

Nelson reported that the Templemans' purchase was not considered a normal transaction for assessment purposes because the title was transferred by a Quit Claim Deed. She explained that this transfer type does not guarantee a clean title based on Iowa Department of Revenue Guidelines (IDR).

In Nelson's opinion, the sales the Templemans listed on their Board of Review petition are not good comparable sales. She reports the 911 E 7th property is smaller, the sale is dated, and it was a family sale. The 707 W 7th property is smaller, is located on the opposite side of town in an inferior location, and the back of the building needs to be demolished. The 806 E 7th property is one-third the size of the subject, although it has similar parking and is located across the street from the Templemans' property.

Nelson reported there were some renovations done on the subject property; however, her office did not complete an interior inspection and she was unsure whether Vanguard had done so.

The Board of Review submitted eight comparable properties in support of the assessment. (Exs. D & F). The chart below lists the normal transactions with sale dates reasonably proximate to the assessment.

Address	Year Built	GBA	Site SF	Sale Date	Sale Price	AV	Sales Ratio
Subject	1963	2376	3500			\$ 56,520	
1101 SW 7th	1952	912	77,526	7/8/2014	\$ 62,500	\$ 68,570	109.71%
108 Cedar	2005	4000	7000	7/30/2014	\$ 120,000	\$ 96,500	80.42%
411 Chestnut	1880	4470	3500	7/31/2014	\$ 76,000	\$ 75,130	98.86%
1106 E 7th	1954	1288	11,333	4/15/2014	\$ 100,000	\$ 98,830	98.83%
315 Walnut	1940	3250	7000	6/5/2015	\$70,000	\$55,880	N/A
305 Birch	2012	3200	21,000	7/21/2015	\$85,000	\$117,169	N/A

First, no sales ratio was calculated for the 2015 sales. To determine inequity, a sales ratio is completed using, for example, 2014 sales prices and 2015 assessments. Second, any assessment/sales ratio is somewhat unreliable in this case, because not all of these properties would be reasonably comparable to examine in a claim of inequity. The properties vary widely and thus, the only reasonably relevant information that could be gleaned from them is sales prices and assessments per square foot. The properties identified by the Board of Review had a sales price per-square-foot of \$17 to \$77.63 per-square-foot. Their assessment per-square-foot range from \$16.81 per-square-foot to \$76.73 per-square-foot. The Templemans' \$23.78 per-square-foot assessment is also below the median of the other property assessments.

The Board of Review also submitted an appraisal completed by Jeffrey Radcliff of NRH Appraisal Associates, LLC in Council Bluffs. He developed the sales (\$53,000) and income (\$58,000) approaches to value reconciling at \$55,000 "as is" on February 17, 2016; a little over one year following the assessment date.

Radcliff reports 7th Street is a major commercial corridor through the Atlantic area. It includes retail, mixed use, office, storage, automotive, and light industrial use properties. Radcliff notes the overall above grade gross building area is 2403 square feet, with a portion of the building being updated in 2015-16. There is approximately 726 square feet of parking. These notes contradict the information listed on the property record card, but confirm Linda Templeman's testimony. Radcliff further notes the parking size is inadequate for the property's current use.

Radcliff identified three comparable sales in Atlantic that occurred between June 2013 and June 2015. Radcliff made a variety of adjustments to each of the sales as

described in his appraisal, including adjustments for differences in condition, construction quality, parking, and land to building ratio. (Ex. G).

Radcliff also completed the income approach to value using the subject property's actual rent. There is no indication that he completed any analysis of market rent. For this reason, we find this method less reliable than his sales approach.

Although the effective date of Radcliff's appraisal is slightly more than a year after the assessment date, nothing in the record indicates more reasonable comparable sales were available for use or that any time adjustment would have altered the value of the comparable properties or Radcliff's final opinion. Radcliff's appraisal confirms the Templemans' testimony that the subject property only has two bathrooms and that the parking area is miscalculated on the property record card. The appraisal also values the subject property using these accurate descriptions of it. Therefore, we determine the appraisal is the best evidence in the record of the subject property's market value on the date in question.

Additionally, PAAB recommends the Board of Review make any necessary adjustments to the property record card so that any future values calculated using the information can be corrected.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if

it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or must be adjusted to eliminate the effect of factors, which distort market value. *Id.*

The Templemans claims the subject's assessment is not equitable as compared to other like property in the taxing district. § 441.37(1)(a)(1)(a). To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). The Templemans did not allege the Assessor failed to uniformly apply assessment methodology to like properties.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one

hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Templemans offered six sales they considered comparable for an equity analysis. Of those, only one was a normal, arm's-length sale. One sale is insufficient to calculate an assessment/sales ratio for equity analysis. Further, Templemans offered no evidence of the subject's fair market value, such as an appraisal, comprehensive market analysis, or recent normal sales of comparable properties. The sale of the subject property was abnormal and not a reliable indicator of its fair market value and prevented developing an assessment/sales ratio for the Templeman property. For these reasons, the Templemans failed to show their property is inequitably assessed.

The Templemans also assert the subject property is over-assessed. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

As previously noted, the Templemans' purchase price is not a reliable indication of its market value because the sale is not normal, and was not adjusted to remove the distorting effects of the abnormal sale condition. While the Templemans offered evidence of commercial sales in Atlantic, they were unadjusted to account for differences between them and the subject, and were either abnormal sales or dated sales.

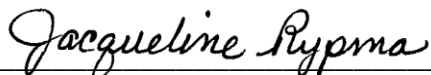
The Board of Review submitted the Radcliff appraisal valuing the property based on the sales and income approaches to value. However, since we find his sales approach to be a more reasonable indication of market value, we determine the assessed value to be \$53,000. The appraisal, though after the assessment date, correctly identifies the number of bathrooms in the subject improvements and the size of the subject's parking, as well as its inadequacy. Considering the record as a whole, we find this evidence shows the subject property is over assessed and should be corrected accordingly.

Order

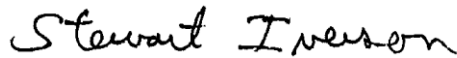
IT IS THEREFORE ORDERED that the Cass County Board of Review's action is modified and the property located at 711 E. 7th Street, Atlantic, Iowa, should be assessed for \$53,000 as of January 1, 2015.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

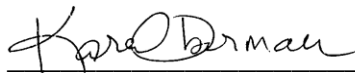
Dated this 4th day of May, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Chuck D Templeman

Brett Ryan

Cass County Auditor